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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,680

10/17/2003

Alfonso Losada

SST/1306

9353

498

7590

04/03/2008

JAMES R. CYPHER  
405 14TH STREET  
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OAKLAND, CA 94612

EXAMINER

CHUKWURAH, NATHANIEL C

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

04/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/687,680	<b>Applicant(s)</b> LOSADA, ALFONSO	
	<b>Examiner</b> NATHANIEL C. CHUKWURAH	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-29 is/are allowed.
- 6) ☒ Claim(s) 25,30 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This office action is in response to the amendment filed on 1/18/2008.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

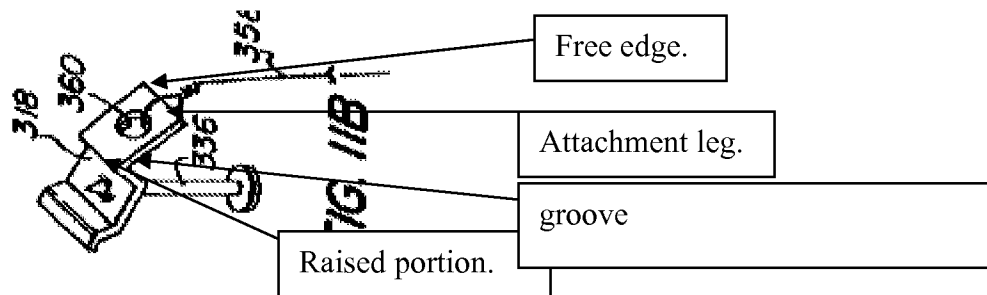
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 25 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Losada (6,273,316) in view of Olvera et al. (US 5,918,789).

With regard to claims 25 and 31, the reference of Losada discloses a fastener assembly feeding system (Fig. 11A) for use with a power actuated gun (10) comprising: a fastener assembly (318, 336) comprising a curved plate (318), the plate having a raised portion (see Fig. below) and a stud (336) frictionally held within the plate (318) at the raised portion, the curved plate (318) further having an attachment leg (see Fig. below) angularly attached to the curved plate (318), the attachment leg having a free edge (see Fig. below) away from where the attachment leg is attached to the curved plate (318); a track (316) adapted to receive the curved plate (318), and shaped to conformed with the curved shape of the plate in such a way as to allow the plate to move within the track. Losada discloses the claimed subject except for a track having curved cross-section on both sides of receiving portion. Olvera et al.'s reference teaches a track having a curved cross-section as shown in Figures 3-5, conforming with the shape of a fastener. In view of the teaching of Olvera et al., it would have been obvious to one skilled in the

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art to provide Losada with a track that will conform with the fastener shape (curved plate and stud) in order to closely receive substantially all the curved plate and stud.



4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losada (6,273,316).

With regard to claim 30, Losada reference discloses the claimed subject matter except for a reference to the bending radius of the curved plate. The bending radius of either the present invention or the prior art curved plate, is an engineering design consideration because of the track spacing to accommodate the curved plate. However, it would have been obvious engineering design choice to one skilled in the art at the time of the invention to modify the bending radius of the curved plate as desired in order to be accommodated in the track with less interference.

#### *Allowable Subject Matter*

5. Claims 26-29 are allowed over prior art of record.

#### *Response to Arguments*

6. Applicant's arguments with respect to claim 25-31 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/N. C. C./  
Examiner, Art Unit 3721  
3/14/2008.

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721